

### **REMARKS**

In the Office Action, the Examiner rejected claims 1-22. By this paper, Applicants have amended claims 1 and 14 and added dependent claims 23-26. The amendments do not add any new matter. Upon entry of these amendments, claims 1-26 remain pending in the present application and are believed to be in condition for allowance. In view of the foregoing amendments and the following remarks, Applicants respectfully request reconsideration and allowance of all pending claims.

### **Interview Summary**

In a telephonic interview conducted on June 26, 2008, Applicants' representative, Tait R. Swanson (Reg. No. 48,226) discussed the present application with the Examiner. Applicants' representative initiated the interview to discuss the Examiner's objection to the specification and the Examiner's rejection of claims 1-7 and 14-16 under 35 U.S.C. § 101. During the interview, Applicants' representative and the Examiner agreed to use the "machine-readable medium" term in independent claims 1 and 14 to overcome the rejection under 35 U.S.C. § 101. However, the Examiner requested an explanation for the term "machine-readable medium" on the record. Accordingly, in order to further prosecution, Applicants' representative agreed to submit the foregoing amendments to claims 1 and 14 and the following remarks to further prosecution of the present application. By the present remarks and amendments, Applicants' representative asserts that specification meets all requirements under 37 C.F.R. §1.75(d)(1) and claims 1-7 and 14-16 are now clearly patentable in view of 35 U.S.C. § 101. Indeed, independent claims 1 and 14 are now explicitly described as comprising a machine-readable medium.

### **Objection to the Specification**

In the Office Action, the Examiner objected to the specification as failing to provide proper antecedent basis for the claimed subject matter. In the rejection, the Examiner stated that the "machine-readable medium of claims 17-19 is not supported by the applicant's specification, even when considering the amendment to the specification submitted on 9/27/2007." Office Action, page 2.

First, Applicants note that the term “machine-readable medium” was recited in claim 17 as filed in the original application. Second, Applicants note that “the words of the claim must be given their plain meaning unless “the plain meaning is inconsistent with the specification.” M.P.E.P. § 2111.01. Further, the “plain meaning” is the “ordinary and customary meaning given to the term by those of ordinary skill in the art.” *Id.* Consequently, Applicants assert that the term “machine-readable medium” should be given its plain meaning, i.e., its ordinary and customary meaning according to those of ordinary skill in the art. Applicants respectfully assert that one having ordinary skill in the art would interpret “machine-readable medium” as a medium readable (e.g., interpretable) by a machine such as a computer.

Further, Applicants note that the M.P.E.P makes reference to the term “computer-readable medium.” For example, in § 2106.01, the M.P.E.P. states:

In contrast, a claimed computer-readable medium encoded with a computer program is a computer element which defines structural and functional interrelationships between the computer program and the rest of the computer which permit the computer program's functionality to be realized, and is thus statutory. See *Lowry*, 32 F.3d at 1583-84, 32 USPQ2d at 1035. Accordingly, it is important to distinguish claims that define descriptive material *per se* from claims that define statutory inventions.

M.P.E.P. §2106.01.

The term “computer-readable medium” is used throughout § 2106.01. Applicants believe that claim 17 and amended claims 1 and 14 recite “machine-readable medium” in a manner consistent with the statutory use of “computer-readable” medium as recited in M.P.E.P. § 2106.01.

Accordingly, based on the recitation of the term “machine-readable medium” in the original claim, the plain meaning of the term as understood by one having ordinary skill in the art, and the use of the term “computer-readable medium” in M.P.E.P. § 2106.01, Applicants respectfully assert that the meaning of the term “machine-readable medium” is apparent from the specification and the interpretation guidelines recited above. Thus, Applicants believe the

specification provides proper antecedent basis for “machine-readable medium” under 37 C.F.R. § 1.75(d)(1). Accordingly, Applicants respectfully request withdrawal of the objection to the specification.

#### **Claim Rejections under 35 U.S.C. § 101**

In the Office Action, the Examiner rejected claims 1-7 and 14-16 under 35 U.S.C. § 101 as directed to non-statutory subject matter. Although Applicants do not necessarily agree with the Examiner’s rejection, Applicants have amended independent claims 1 and 14 as set forth above to expedite allowance of the present claims. Specifically, Applicants have amended the claims 1 and 14 to recite “a machine-readable medium having a program, comprising.” Additionally, as discussed above under response to the objection to the specification, Applicants respectfully assert that the meaning of the term “machine-readable medium” is apparent from the specification and the plain meaning of the term as understood by one having ordinary skill in the art. Accordingly, Applicants respectfully request withdrawal of the rejections under 35 U.S.C. § 101.

#### **Claim Rejections under 35 U.S.C. § 102**

In the Office Action, the Examiner rejected claims 1-22 under 35 U.S.C. § 102(e) as anticipated by Davis et al. (U.S. Patent No. 7,254,634, hereinafter “Davis”). Applicants respectfully traverse this rejection.

#### ***Legal Precedent and Guidelines***

Anticipation under section 102 can be found only if a single reference shows exactly what is claimed. *Titanium Metals Corp. v. Banner*, 778 F.2d 775, 227 U.S.P.Q. 773 (Fed. Cir. 1985). For a prior art reference to anticipate under section 102, every element of the claimed invention must be identically shown in a single reference. *In re Bond*, 910 F.2d 831, 15 U.S.P.Q.2d 1566 (Fed. Cir. 1990). To maintain a proper rejection under section 102, a single reference must teach each and every limitation of the rejected claim. *Atlas Powder v. E.I. du Pont*, 750 F.2d 1569 (Fed. Cir. 1984). Accordingly, Applicants need only point to a single element not found in the cited reference to demonstrate that the cited reference fails to anticipate

the claimed subject matter. The prior art reference also must show the identical invention “*in as complete detail as contained in the ... claim*” to support a *prima facie* case of anticipation. *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 U.S.P.Q. 2d 1913, 1920 (Fed. Cir. 1989).

***The cited reference is missing features recited by independent claims 1, 8, 14, and 17.***

Turning to the claims, amended independent claim 1 recites, *inter alia*, “a cookie manager that is configured to prevent conflicting cookie values associated with the cookie by evaluating a plurality of cookie values associated with multiple actions invoking the cookie and selecting an appropriate one of the plurality of cookie values” (emphasis added). Additionally, independent claim 8 recites, *inter alia*, “providing a cookie manager that stores a plurality of cookie values associated with a cookie invoked by actions and that selects one of the plurality of cookie values based on the requests for data” (emphasis added). Amended independent claim 14 recites, *inter alia*, “means for managing multiple cookie actions to maintain a current value of a particular cookie by evaluating a plurality of cookie values associated with the particular cookie and selecting an appropriate one of the plurality of cookie values” (emphasis added). Finally, independent claim 17 recites, *inter alia*, “a cookie manager ... configured to provide a desired cookie value for a response to a user request, wherein the desired cookie value is one cookie value selected from multiple cookie values set by different actions for a particular cookie” (emphasis added).

Applicants assert that Davis does not disclose “a plurality of cookie values” or selecting one of the cookie values. In those portions of Davis cited by the Examiner, Davis discloses a “session identifier” that is “created and stored in the web-tier container of the machine to which a user is first mapped.” Davis, col. 8, lines 29-34. As stated in Davis, these “session state objects” are “servlets” that are stored in the “web-tier of an enterprise application.” *Id.* at col. 2, lines 21-27. As is well-known in the art, the term “servlet” indicates an object executed on a server, and the “web-tier” of an enterprise application typically refers to one or more web servers. In contrast to these session state objects, “cookies” are stored on clients and servers, and, as stated in the present application, are used to “transfer information between a web application and a web

server.” Indeed, Davis even distinguishes between the session state objects/servlets and “cookies.” As stated in Davis:

“For origin servlets that rely on session state, the “client-side” servlet stub 602 serializes the session state into a data structure such as a cookie...[t]he server-side stub 606 then reads the cookie, deserializes the cookie into a session state object 610, and then invokes the actual servlet. After the servlet invocation, the session state is once again serialized and sent back to the “client-side” servlet stub, preferably as a cookie. When the cookie reaches the edge (client-side), it is deserialized into a session state object.”

*Id.* at. col. 11, line 59 – col. 12, line 4.

Thus, cookies, even as recited in Davis, are different from the “servlets” that contain the session state object. In Davis, the primary function of the cookies is to transfer state information between a server-side and client-side. Applicants assert that these session-state objects/servlets disclosed in Davis are not “cookies” and cannot anticipate “cookies” as recited in independent claims 1, 8, 14, and 17. Thus, any of the techniques disclosed in Davis relating to session state objects/servlets cannot anticipate the claim features of independent claims 1, 8, 14, and 17 that are directed to “cookies.”

Davis does not teach or suggest “a plurality of cookie values” or “selecting”/”selects”/”selected” one of the cookie values as recited by independent claims 1, 8, 14, and 17. As stated in Davis, the cookies disclosed therein are only used to store a session state, e.g., a session id. Davis, col. 11, line 53 – col. 12, line 23. For example, in the portion of Davis discussing cookies, Davis states that “the user receives a cookie with session id 11111.” *Id.* at col. 12, line 64. As best as Applicants can determine, Davis does not disclose any other value that is stored in the cookies. Only the session state object/session id is “serialized” or stored into the cookie. Thus, because Davis only discloses a single value, e.g., session id, in the cookies, Davis does not disclose a “plurality of cookie values” as recited by independent claims 1, 8, 14, and 17. Additionally, because Davis does not disclose a “plurality of cookie values,” it is incapable of disclosing “selecting”/”selects”/”selected”

one of the cookie values” as recited by claims 1, 8, 14, and 17. Indeed, there is no need for Davis to select a cookie value if the cookie only contains one piece of information, i.e., the session id.

Accordingly, for at least these reasons, Applicants respectfully request withdrawal of the rejection of independent claims 1, 8, 14, and 17 and the claims that depend therefrom.

### **New Claims**

Applicants respectfully request entry and consideration of new dependent claims 23-26. Claims 23-26 are fully supported by the specification, and Applicants respectfully submit that the prior art of record does not teach or suggest the recited subject matter of claims 23-26. For example, claim 23 is dependent on claim 1, claim 24 is dependent on claim 8, claim 25 is dependent on claim 14, and claim 26 is dependent on claim 17. Thus, Applicants respectfully submit that dependent claims 23-26 are allowable over the cited reference based on their dependencies on independent claims 1, 8, 14, and 17.

**Conclusion**

Applicants respectfully submit that all pending claims should be in condition for allowance. However, if the Examiner believes certain amendments are necessary to clarify the present claims or if the Examiner wishes to resolve any other issues by way of a telephone conference, the Examiner is kindly invited to contact the undersigned attorney at the telephone number indicated below.

Respectfully submitted,

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